

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DARYL THOMAS,

Plaintiff,

v.

JOHN PALAKOVICH, WARDEN OF
CAMP HILL PRISON; MARY SABOL,
WARDEN OF YORK COUNTY PRISON;
DOCTOR VONKIEL; MEGHANN C.
CENTENO, COUNSELOR; DOCTOR
NICHOLAS SCHAFF, CHIEF OF
CLINICAL SERVICE PENNSYLVANIA
DEPARTMENT OF CORRECTIONS;

Defendants.

CIVIL ACTION NO. 3:11-CV-2172

(JUDGE CAPUTO)

(MAGISTRATE JUDGE BLEWITT)

ORDER

NOW, this 29th day of March, 2012, after consideration of Magistrate Judge Blewitt's Report and Recommendation to dismiss Plaintiff's Complaint (Doc. 1) and grant his Motion for Leave to Proceed *In Forma Pauperis* (Doc. 2), as well as Plaintiff's Objections, **IT IS HEREBY ORDERED THAT** the Report and Recommendation (Doc. 9) is **ADOPTED in part** and **REJECTED in part** as follows.

(1) Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* is **GRANTED**.

(2) The following claims in Plaintiff's Complaint are **DISMISSED**:

(a) Plaintiff's Eighth Amendment claims against Warden Palakovich and Warden Sabol;

(b) Plaintiff's Fifth and Fourteenth Amendment claims;

(c) Plaintiff's medical malpractice claim;

(d) Plaintiff's claim for monetary damages from Dr. Nicholas Schaff in his official capacity; and

(e) Plaintiff's claim for injunctive relief.

(3) Plaintiff will have **twenty-one (21) days** to amend his Eighth Amendment claims against Warden Palakovich and Warden Sabol. When submitting an amended complaint, Plaintiffs must follow the procedure for highlighting of

amendments outlined in **Local Rule 15.1(b)**.

(3) The case shall be recommitted to Magistrate Judge Smyser for further proceedings.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge